IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WA.No. 1414 of 2007()

AGAINST THE JUDGEMENT IN WPC.15742/2007 Dated 25/05/2007
.....

APPELLANT: PETITIONER

ASSOCIATED CEMENT COMPANY(ACC LTD),
BUILDING NO.TM 13/650C, THIRUVANGAD,
THALASSERY, REPRESENTED BY ITS DEPUTY MANAGER,
ACCOUNTS G.VENKOB RAO.

BY ADV. SRI.R.RAMADAS

RESPONDENTS: RESPONDENTS
---

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES, KOZHIKODE.

3. THE ASSISTANT COMMISSIONER (AUDIT
ASSESSMENT), DEPARTMENT OF COMMERCIAL TAXES,
KANNUR.

BY SPL.GOVT. PLEADER (TAXES) MR.V.V.ASOKAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1414 of 2007

Dated, this the 18th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

On an earlier occasion the appellant was before this Court in W.P.(C) No.8709 of 2007. This Court by its order dated 15th March, 2007 was pleased to dispose of that writ petition and was further pleased to direct the first appellate authority to consider the stay petition filed by the petitioner company.

2. After the disposal of that writ petition, the first appellate authority by its order dated 18.4.2007 has disposed of the stay petition filed by the petitioner company. The order passed by the first appellate authority reads as under:

> "The payment of balance tax is stayed till the disposal of appeal on conditions that the petitioner remits 50% of the balance amount and furnishes security for the balance amount to the satisfaction of the assessing authority within a period of one month from the date of this orders."

3. Aggrieved by the order so passed, the petitioner was once again before a learned Single Judge of this Court in W.P.(C) No.15742 of 2007. The learned Single Judge taking a very sympathetic view of the matter, has directed the petitioner to deposit only an amount of rupees ten lakhs within a month from the date of the order. Further, the learned Single Judge has directed the appellate authority to take up the appeal out of turn and dispose of the same within three months from the date of making the payment as directed.

4. In our opinion, the appellant should have been fully satisfied with the orders and directions issued by this Court. Instead of doing so, he has ventured to file this writ appeal.

5. After hearing the learned counsel for the appellant, we are of the firm

opinion that the appellant has not made out a case for interfering with the orders and directions issued by this Court. Therefore, the writ appeal requires to be rejected and it is rejected. Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns